

**MEMO ENDORSED**

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February 21, 2014

**BY FEDEX**

The Honorable Louis L. Stanton  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

RECEIVED IN CHAMBERS  
OF LOUIS L. STANTON  
FEB 25 2014  
UNITED STATES DISTRICT JUDGE

Re: **Ronard Lora, et al., v. J.V. Car Wash, Ltd., et al., No. 11-CV-9010 (LLS)**

Dear Judge Stanton:

As you know, we represent the Plaintiffs in the above-referenced action (the "FLSA Action"). This is a joint letter of counsel with Louis J. Maione, Esq., counsel for the Defendants. We are writing to apprise the Court of the current status of this FLSA Action, and to request a further extension of the dates set forth in the Court's Order dated December 16, 2013 (the "December 16 Order").

**Case Status**

I will state at the outset that counsel have been working and are continuing to work cooperatively with each other to complete discovery in this FLSA Action. In accordance with the December 16 Order, Mr. Maione provided the Defendants' written responses to the Plaintiffs' Requests for Admissions on January 13, 2014. We provided all eighteen of the Plaintiffs for their depositions from January 28-31, 2014, and on February 5, 2014.

Mr. Jose Vazquez appeared in my office for his deposition, in both his individual capacity and his representative capacity as the corporate designee of the four Car Wash Defendants, from January 22-24, 2014. I was unable to complete Mr. Vazquez's deposition over this three-day period, as several days were shortened due to winter storms. Mr. Maione has agreed to produce Mr. Vazquez on another day to complete his testimony.

During the course of his testimony as the corporate designee, Mr. Vazquez repeatedly answered "I don't know," "I don't remember" and "I would have to check" in response to questions on matters contained in the deposition notice. Mr. Vazquez identified Mr. Saturnino Vargas and Mr. Jose Jimenes, the managers of the Car Wash Defendants (and individual Defendants in this FLSA Action), as the persons who would have knowledge of these matters. Mr. Vazquez also identified an individual named "Millie DeJesus" (whose proper name we believe is Milagros Jesus), as someone who performed various functions for the Car Wash Defendants, which included handling the books and records of each of the four Car Wash Defendants. Based on this testimony by Mr. Vazquez, the Plaintiffs believe that Ms. Jesus has knowledge relevant to this FLSA Action.

Mr. Vazquez also testified during his deposition concerning relevant documents that allegedly were created at each of the four Car Wash Defendants, and were maintained by Ms.

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Jesus at Mr. Vazquez's home for some period of time. I called for the production of these and other documents that Mr. Vazquez mentioned during his testimony. I also called for the production of relevant documents that had been demanded in the Plaintiffs' original discovery demands from July 2012, and which had not yet been produced by the Defendants. I advised Mr. Maione, and he agreed, that I was entitled to receive these documents before I continued Mr. Vazquez's deposition.

On February 13, 2014, Mr. Maione produced a flash drive containing forty-four (44) files that appear to be copies of quarterly employee payroll tax returns for the four Car Wash Defendants. Mr. Maione also has agreed to produce the other documents and information that I demanded during Mr. Vazquez's deposition, when and if he receives those materials from his client.

Essentially, the parties are in agreement that the Plaintiffs are entitled to receive additional documents from the Defendants (subject to confirmation by Defendants' counsel as to whether such documents exist), and are entitled to complete Mr. Vazquez's deposition and to take the depositions of Mr. Vargas and Mr. Jimenes. Additional time is required in order to allow Plaintiffs to take these depositions. (For a variety of reasons (including winter storms and other conflicting commitments), we have not yet been able to schedule the dates for these events to occur.)

Further, the Plaintiffs believe that they also are entitled to take the deposition of Ms. Jesus. Mr. Maione has agreed to assist us with obtaining information that will allow us to serve a non-party subpoena on Ms. Jesus for her testimony. At the present time, we do not know how amenable Ms. Jesus will be to service of such a subpoena, or whether she will seek to quash the subpoena. The Plaintiffs need additional time in order to accomplish service, and to take this deposition.

### **Request for Extension**

At our last conference before the Court on December 16, 2013, Your Honor set March 5, 2014, as the date by which all final pre-trial materials, including the joint pre-trial order, were due to be submitted to chambers. Your Honor also set March 7, 2014, as the date for the final pre-trial conference in this FLSA Action, and indicated that the actual date for the trial of this matter would be determined at that conference. However, in light of the above-described circumstances (which the parties did not foresee at the time of the Court's December 16 Order), the parties will not be able to complete these pre-trial materials by March 5, 2014. Accordingly, the parties jointly and respectfully request that the March 5, 2014 deadline for the submission of all pre-trial materials be adjourned, especially as there currently is no trial date set for this FLSA Action.<sup>1</sup>

The Plaintiffs expect to complete the deposition of Mr. Vazquez and to take the depositions of Mr. Vargas, Mr. Jimenes and Ms. Jesus by March 28, 2014. Based on other

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<sup>1</sup> We also request that the March 7, 2014 conference be adjourned, unless the Court would like us to appear for a status conference at that time.

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commitments of the parties in March and April (which include the Passover and Easter holidays in April), we request that dates be re-scheduled as follows, subject to the Court's approval:

On or before Friday, April 25, 2014, Plaintiffs shall submit to Defendants a draft pre-trial order;

On or before Friday, May 16, 2014, Defendants shall respond to Plaintiffs' pre-trial order in accordance with Rule 3(A)(2) of the Court's individual practices; and

On or before Wednesday, May 21, 2014, at noon, the parties shall submit to chambers a joint pre-trial order, proposed voir dire questions, proposed jury charges, trial briefs and proposed verdict forms.

Final pre-trial conference to be held on Friday, May 23, 2014,

Trial to commence on Monday, June 9, 2014, at 10:30 a.m. (We will need time to make arrangements for Spanish language interpreters and third-party witnesses.)

at 12 noon

So  
Ordered.  
Louis L. Stanton  
2/25/14

TOD at 5/23 conf.

We thank the Court for its consideration of this request.

Respectfully submitted,



Laura E. Longobardi

LEL:

cc: Louis J. Maione, Esq. (by electronic mail)